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II

109TH CONGRESS
2D SESSION

S. 2601

To amend the Social Security Act to improve choices available to Medicare eligible seniors by permitting them to elect (instead of regular Medicare benefits) to receive a voucher for a health savings account, for premiums for a high deductible health insurance plan, or both and by suspending Medicare late enrollment penalties between ages 65 and 70.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2006

Mr. ALEXANDER (for himself and Mr. DEMINT) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to improve choices available to Medicare eligible seniors by permitting them to elect (instead of regular Medicare benefits) to receive a voucher for a health savings account, for premiums for a high deductible health insurance plan, or both and by suspending Medicare late enrollment penalties between ages 65 and 70.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Health Care Choices
5 for Seniors Act".

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The Social Security Administration's Pro-
4 gram Operations Manual System section HI
5 00801.002, titled "Waiver of Hospital Insurance
6 Entitlement by Monthly Beneficiary", provides that
7 an individual who does not sign up for part A of the
8 medicare program when the individual signs up for
9 social security benefits will lose such benefits, re-
10 gardless of the desire of the individual to not partici-
11 pate in the medicare program because of religious or
12 philosophical reasons or a preference to have private
13 health insurance.

14 (2) As part of the Medicare Prescription Drug,
15 Improvement, and Modernization Act of 2003 (Pub-
16 lic Law 108-173), Congress increased health insur-
17 ance options by authorizing health savings accounts
18 into which individuals may make annual contribu-
19 tions of not more than \$2,650 and families may
20 make such contributions of not more than \$5,250
21 that are allowable as deductions for income tax pur-
22 poses. Seniors are not allowed to deduct contribu-
23 tions to their health savings account after the date
24 of the entitlement of such seniors to medicare bene-
25 fits.

1 (3) Section 1802(b) of the Social Security Act
 2 (42 U.S.C. 1395a(b)), added by section 4507 of the
 3 Balanced Budget Act of 1997, states that a medi-
 4 care beneficiary may only enter into a private con-
 5 tract with a physician for an item or service if no
 6 claim for payment under title XVIII of such Act will
 7 be submitted. In the case of such contract, the phy-
 8 sician must sign an affidavit that acknowledges such
 9 contract and that provides that the physician will
 10 not submit a claim, and will forgo reimbursement,
 11 under such title for an item or service provided to
 12 any medicare beneficiary for a period of two years.

13 **SEC. 3. AUTHORITY TO ELECT VOUCHER PROGRAM IN-**
 14 **STEAD OF MEDICARE PART A ENTITLEMENT.**

15 (a) IN GENERAL.—Section 226 of the Social Security
 16 Act (42 U.S.C. 426) is amended by adding at the end the
 17 following new subsections:

18 “(k) WAIVER OF ENTITLEMENT AND ELECTION OF
 19 VOUCHER PROGRAM.—

20 “(1) IN GENERAL.—Notwithstanding the pre-
 21 vious provisions of this section, the Secretary shall
 22 establish a procedure under which an individual oth-
 23 erwise entitled under subsection (a) to benefits
 24 under part A of title XVIII may waive such entitle-
 25 ment and be automatically enrolled in the Medicare

1 Alternative Voucher Program established under sub-
 2 section (l) if—

3 “(A) at the time such waiver is made the
 4 individual—

5 “(i) has a health savings account de-
 6 scribed in subsection (d) of section 223 of
 7 the Internal Revenue Code of 1986 (26
 8 U.S.C. 223); and

9 “(ii) is enrolled under a high deduct-
 10 ible health plan, as defined in subsection
 11 (c)(1) of such section; and

12 “(B) the individual makes such waiver dur-
 13 ing the initial enrollment period described in
 14 section 1837(d).

15 “(2) TREATMENT UNDER THE INTERNAL REV-
 16 ENUE CODE OF 1986.—An individual who waives en-
 17 titlement under paragraph (1) shall not be treated
 18 as entitled to benefits under title XVIII for purposes
 19 of section 223(b)(7) of the Internal Revenue Code of
 20 1986.

21 “(3) INELIGIBILITY FOR PART B OR D BENE-
 22 FITS.—An individual shall not be eligible for benefits
 23 under part B or D of title XVIII during the period
 24 for which the individual waives entitlement under
 25 part A of such title under paragraph (1).

1 “(4) TERMINATION OF WAIVER AND REENROLL-
 2 MENT UNDER MEDICARE PROGRAM.—The Secretary
 3 shall establish a procedure under which an individual
 4 who waives entitlement under paragraph (1) may
 5 terminate such waiver during an annual period that
 6 shall be the same as the annual general enrollment
 7 period described in section 1837(e). For purposes of
 8 applying parts B and D of title XVIII, such indi-
 9 vidual shall be treated as if the individual were enti-
 10 tled to benefits under part A of such title as of the
 11 date such individual terminates the waiver under
 12 this paragraph. An individual who has terminated
 13 such a waiver may not subsequently make such a
 14 waiver.

15 “(1) MEDICARE ALTERNATIVE VOUCHER PRO-
 16 GRAM.—

17 “(1) ESTABLISHMENT OF PROGRAM.—The Sec-
 18 retary shall establish a program to be known as the
 19 Medicare Alternative Voucher Program (in this sub-
 20 section referred to as the ‘voucher program’) con-
 21 sistent with this subsection.

22 “(2) AUTOMATIC ENROLLMENT.—An individual
 23 who waives entitlement under subsection (k)(1) shall
 24 be enrolled in the voucher program for the period
 25 during which such waiver is in effect.

1 “(3) AMOUNT OF VOUCHER.—

2 “(A) AMOUNT BASED ON AGE COHORT.—

3 “(i) IN GENERAL.—Subject to clause
4 (ii), for each month that an individual
5 within an age cohort is enrolled in the
6 voucher program, the Secretary shall pro-
7 vide a voucher to such individual in an
8 amount that is equal to the monthly actu-
9 arial rate for that month computed under
10 section 1818(d)(1) multiplied by the age
11 cohort adjustment factor for such age co-
12 hort under subparagraph (B).

13 “(ii) MONTHLY LIMIT.—The amount
14 of a voucher provided to an individual for
15 a month may not exceed \$200.

16 “(B) AGE COHORT ADJUSTMENT FAC-
17 TOR.—For each age cohort the Secretary shall
18 determine an age cohort adjustment factor
19 equal to the ratio of—

20 “(i) the monthly actuarial rate de-
21 scribed in section 1818(d)(1) as deter-
22 mined by the Secretary for individuals in
23 such age cohort, to

24 “(ii) the monthly actuarial rate de-
25 scribed in such section.

1 “(C) AGE COHORT DEFINED.—For pur-
 2 poses of this paragraph, an ‘age cohort’ means
 3 a group of individuals whose age falls within a
 4 span of five consecutive years, consistent with
 5 the following:

6 “(i) The first such span begins at age
 7 65.

8 “(ii) Other spans follow consecutively.

9 “(4) PERMISSIBLE USE OF VOUCHER.—A
 10 voucher under paragraph (3) may be used only for
 11 the following purposes:

12 “(A) As a contribution into a health sav-
 13 ings account established by such individual, as
 14 described in subsection (k)(1)(A).

15 “(B) For payment of premiums for enroll-
 16 ment of such individual under a high deductible
 17 health plan described in such subsection.

18 “(5) EFFECT OF SUBSEQUENT TERMINATION
 19 OF WAIVER.—If an individual terminates a waiver
 20 under subsection (k)(4), the enrollment of such indi-
 21 vidual in the voucher program shall be terminated
 22 on the date on which the termination becomes effec-
 23 tive.”.

24 (b) AMENDMENT OF INTERNAL REVENUE CODE OF
 25 1986.—Paragraph (7) of section 223(b) of the Internal

1 Revenue Code of 1986 (relating to medicare eligible indi-
2 viduals) is amended to read as follows:

3 “(7) MEDICARE ELIGIBLE INDIVIDUALS.—

4 “(A) IN GENERAL.—The limitation under
5 this subsection for any month with respect to
6 an individual shall be zero for any month such
7 individual is entitled to benefits under title
8 XVIII of the Social Security Act.

9 “(B) MEDICARE ALTERNATIVE VOUCHER
10 PROGRAM.—In the case of an individual who is
11 enrolled in the Medicare Alternative Voucher
12 Program under section 226(l) of the Social Se-
13 curity Act, the applicable limitation under sub-
14 paragraphs (A) and (B) of paragraph (2) shall
15 be increased by the amount of the voucher de-
16 scribed in paragraph (3) of such section which
17 is contributed to a health savings account of
18 such individual.”.

19 (c) EFFECTIVE DATE.—

20 “(1) IN GENERAL.—The amendment made by
21 subsection (a) shall take effect on the date that is
22 six months after the date of the enactment of this
23 Act and shall apply to an individual who becomes
24 entitled to benefits under part A of title XVIII of

1 the Social Security Act on or after such date of the
2 enactment.

3 (2) AMENDMENT OF INTERNAL REVENUE CODE
4 OF 1986.—The amendment made by subsection (b)
5 shall apply to months ending after the date referred
6 to in paragraph (1), in taxable years ending after
7 such date.

8 **SEC. 4. SUSPENSION OF MEDICARE LATE ENROLLMENT**
9 **PENALTIES BETWEEN AGES 65 AND 70 IF THE**
10 **INDIVIDUAL IS ENROLLED IN THE MEDICARE**
11 **ALTERNATIVE VOUCHER PROGRAM.**

12 (a) PART B.—The second sentence of section 1839(b)
13 of the Social Security Act (42 U.S.C. 1395r(b)) is amend-
14 ed by inserting before the period the following: “and there
15 shall not be taken into account (for individuals not entitled
16 to benefits under section 226A) any month during any
17 part of which the individual attained age 65 and had not
18 attained age 70 and was enrolled in the Medicare Alter-
19 native Voucher Program under section 226(l)”.

20 (b) PART D.—

21 (1) IN GENERAL.—Section 1860D-13(b)(2) of
22 such Act (42 U.S.C. 1395w-113(b)(2)) is amended
23 by adding at the end the following sentence: “For
24 purposes of the preceding sentence, in the case of an
25 individual not entitled to benefits under part A



1 under section 226A, a continuous period of eligibility
2 shall not include any month during any part of
3 which the individual attained age 65 and had not at-
4 tained age 70 and was enrolled in the Medicare Al-
5 ternative Voucher Program under section 226(1).”

6 (2) CONFORMING AMENDMENT.—Section
7 1860D–1(b)(6)(A) of such Act (42 U.S.C. 1395w–
8 101(b)(6)(A)) is amended by inserting after “para-
9 graph (2)” the following: “, but excluding the period
10 between 65 and 70 years of age if the individual was
11 enrolled in the Medicare Alternative Voucher Pro-
12 gram under section 226(1)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to individuals who attain 65 years
15 of age in a month after the month in which this Act is
16 enacted.

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